

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

THOMAS K. GIPSON,

Plaintiff,

v.

**DEUTSCHE BANK NATIONAL TRUST
COMPANY as Trustee for Morgan Stanley
Ixis Real Estate Capital Trust 2006-1
Mortgage Pass Through Certificates, Series
2006-1, et. al.,**

Defendants.

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Civil Action No. 3:13-CV-4820-L

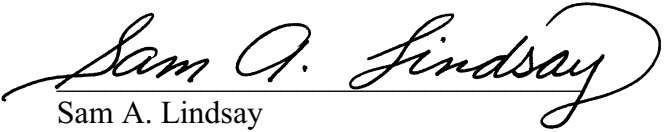
ORDER

This case was referred to Magistrate Judge Irma Carrillo Ramirez, who entered Findings, Conclusions, and Recommendation of the United States Magistrate Judge (“Report”) (Doc. 38) on January 20, 2015, recommending that the court dismiss Plaintiff’s claims against First NLC Financial Services LLC Limited Liability Company (“First NLC”) and Deutsche National Bank without prejudice for failure to comply with Federal Rule of Civil Procedure 4(m). On January 8, 2015, after the 120 days for effecting service had lapsed, the magistrate judge ordered Plaintiff to show cause no later than January 16, 2015, for his failure to comply with Rule 4(m), and informed him that failure to comply with her order would result in dismissal. *See* Doc. 37. As a result, the magistrate judge provided Plaintiff with the notice required under Rule 4(m). On January 20, 2015, the same day that the magistrate judge filed her Report, Plaintiff filed what he designated as proof of service. *See* Doc. 40. Even if Plaintiff filed this before the magistrate judge filed her Report, Plaintiff’s proof of service is insufficient to avoid dismissal. Plaintiff did not effect service properly, as a party may not serve a defendant, and he did not show cause as to why he did not properly effect

service.* Since the magistrate judge provided Plaintiff with the proper warning, as required by Rule 4(m), dismissal is proper.

Having reviewed the pleadings, file, and record in this case, and the findings and conclusions of the magistrate judge, the court determines that the magistrate judge's findings and conclusions are correct, and **accepts** them as those of the court. Accordingly, the court **dismisses without prejudice** Plaintiff's claims against First NLC and Deutsche National Bank.

It is so ordered this 25th day of August, 2015.


Sam A. Lindsay
United States District Judge

* The court notes that Plaintiff's proof of service is deficient in several regards. The receipts in the document show that Plaintiff attempted to mail something to the unserved parties; however, they do not show whether these parties were properly served or whether they actually received what Plaintiff mailed.